

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:	: CHAPTER NO. 13
JAMES SIMMONS	: CASE NO. 19-01991-RNO
&	:
KEISHA SIMMONS,	:
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DEBTORS	: OBJECTION TO PLAN
PENNSYLVANIA DEPARTMENT	: CONFIRMATION HEARING
OF REVENUE,	: July 24, 2019 @ 9:30 a.m.
MOVANT	:
V.	:
JAMES SIMMONS	:
&	:
KEISHA SIMMONS,	:
RESPONDENTS	: RELATED TO DOCKET NO. 8

PENNSYLVANIA DEPARTMENT OF REVENUE'S
OBJECTION TO DEBTOR'S PROPOSED CHAPTER 13 PLAN

NOW COMES, the Commonwealth of Pennsylvania, Department of Revenue (hereinafter "Department"), by and through its Office of Chief Counsel and Counsel Jim Peavler, and files this plan objection as authorized by 11 U.S.C. § 1324 for the following reasons, to wit:

1. This objection is made on the grounds that the Plan does not comply with the provisions of Chapter 13. The Debtors' obligation pursuant to Title 11 U.S.C. § 1325(a)(5) to provide for full payment of all Department claims entitled to secure status as required by 11 U.S.C. § 506.
2. The Department's proof of claim, containing secured and non-priority tax claims, is not specifically treated within the Debtors' proposed Chapter 13 plan in the proper classifications or amounts.

3. Debtors' counsel was notified by letter dated May 10, 2019 that certain pre-petition state tax returns had not been filed. See Exhibit "1." According to Department records, these returns still have not been filed. More specifically, Debtors have the following unfiled returns: Personal Income Tax (XXX-XX-4620) for tax years 2016 through 2018; Personal Income Tax (XXX-XX-2760) for tax years 2016 through 2018. Pursuant to the provisions of Title 11 U.S.C. § 1308(c), Debtors' proposed plan is not confirmable unless all of the tax returns referenced in Exhibit "1" are filed and all tax principal and prepetition statutory interest amounts arising from such late-filed returns are added as additional unsecured priority state tax claims within the context of Debtors' amended Chapter 13 plan. If not, no proposed plan should be confirmed pursuant to 11 U.S.C. §§ 1308 and 1322.

- a. The Department request, a copy of any and all past-due prepetition tax returns filed by Debtors, along with all corresponding documentation and schedules be submitted to the undersigned counsel at the following address:

Pennsylvania Department of Revenue
Office of Chief Counsel
P.O. Box 281061
Harrisburg, PA 17128-1061
Attn: Jim Peavler, Esq.

4. Without the filing of the outstanding tax returns the Department cannot file a complete and liquidated claim against the Debtors, and all of the missing tax returns constitute priority tax claims under Title 11 U.S.C. § 507.
5. It is unclear as to how the Debtors intends to provide for the full payment of the Department's secured claim. The Plan should provide for the full payment of the Department's secured claim along with accrued interest in the amount of six percent.

The Department believes there will be sufficient assets for the Department's liens to attach to Debtors' personal property. Nonetheless, in the event the Debtor does not have sufficient property for the Department's liens to attach to, the Department is amenable to reclassifying its claims into appropriate classifications as may be.

6. Ultimately, the Department must object to the Debtors' instant Plan because it is not in compliance with 11 U.S.C. §§ 1322 and 1325.

WHEREFORE, the Department respectfully requests this Honorable Court deny confirmation of the Debtors' Proposed Chapter 13 Plan unless and until the Department's Objections have been cured and an amended plan is filed that accounts for the Department's claim(s) in the proper classification and amount.

Respectfully submitted by:

/s/ Jim Peavler
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